

**JOURNAL OF THE SENATE**

**Fifty-sixth Legislative Assembly**

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**Bismarck, April 13, 1999**

The Senate convened at 9:00 a.m., with President Myrdal presiding.

The prayer was offered by Senator Tomac.

The roll was called and all members were present except Senators Bercier and Mutzenberger.

A quorum was declared by the President.

**REPORT OF CONFERENCE COMMITTEE**

**SEN. CHRISTMANN MOVED** that the conference committee report on Engrossed SB 2202 as printed on SJ page 1225 be adopted, which motion prevailed on a voice vote.

**REPORT OF CONFERENCE COMMITTEE**

**SEN. COOK MOVED** that the conference committee report on Engrossed SB 2344 as printed on SJ page 1225 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2344, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2344:** A BILL for an Act to amend and reenact section 15-47-33 of the North Dakota Century Code, or in the alternative to amend and reenact section 15.1-06-04 of the North Dakota Century Code, relating to length of the school year.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Bercier; Mutzenberger

Engrossed SB 2344, as amended, passed and the title was agreed to.

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**MOTION**

**SEN. ST. AUBYN MOVED** that SB 2355 be moved to the bottom of the Seventh order, which motion prevailed.

**REPORT OF CONFERENCE COMMITTEE**

**SEN. ST. AUBYN MOVED** that the conference committee report on Engrossed SB 2168 as printed on SJ pages 1224-1225 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2168, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2168:** A BILL for an Act to create and enact a new chapter to title 6, a new section to chapter 50-24.4, and a new chapter to title 50 of the North Dakota Century Code, relating to a funding pool to establish the North Dakota health care trust fund to make grants and loans to support development of basic care facilities, assisted living facilities, and other alternatives to nursing facility care; to repeal chapter 50-21 of the North Dakota Century Code, relating to the administration of a revolving fund for nursing homes and homes for aged; to provide continuing appropriations to make funding pool payments and disbursements from the North Dakota health care trust fund; to declare a retroactive application; to provide an appropriation; to provide an expiration date; and to declare an emergency.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Bercier; Mutzenberger

Engrossed SB 2168, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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**REPORT OF CONFERENCE COMMITTEE**

**SEN. NETHING MOVED** that the conference committee report on Engrossed HB 1002 as printed on SJ pages 1227-1229 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1002, as amended, was placed on the Fourteenth order.

**SECOND READING OF HOUSE BILL**

**HB 1002:** A BILL for an Act to provide an appropriation for defraying the expenses of the judicial branch; to provide for a legislative council study; and to amend and reenact sections 27-02-02 and 27-05-03 of the North Dakota Century Code, relating to salaries of supreme and district court judges.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 38 YEAS, 9 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krebsbach; Kringstad; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Naaden; Nelson, C.; Nelson, G.; Nething; Redlin; Robinson; Sand; Schobinger; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Traynor; Urlacher; Wanzek; Wardner; Watne

**NAYS:** Bowman; Heitkamp; Krauter; Kroepflin; Mutch; O'Connell; Solberg; Thompson; Tomac

**ABSENT AND NOT VOTING:** Bercier; Mutzenberger

Engrossed HB 1002, as amended, passed and the title was agreed to.

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**REPORT OF CONFERENCE COMMITTEE**

**SEN. HOLMBERG MOVED** that the conference committee report on Engrossed HB 1017 as printed on SJ pages 1229-1231 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1017, as amended, was placed on the Fourteenth order.

**SECOND READING OF HOUSE BILL**

**HB 1017:** A BILL for an Act to provide an appropriation for defraying the expenses of job service North Dakota; to provide for a report to the budget section; and to declare an emergency.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Bercier; Mutzenberger

Engrossed HB 1017, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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**APPOINTMENT OF CONFERENCE COMMITTEE**

**SEN. NETHING MOVED** that the President appoint a committee of three to act with a like committee from the House as a new Conference Committee on Engrossed SB 2008, which motion prevailed.

**THE PRESIDENT APPOINTED** as a new Conference Committee on Engrossed SB 2008: Sens. Holmberg, Solberg, Tomac.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for his approval on April 13, 1999: SB 2014, SB 2016, SB 2019, SB 2021, SB 2026, SB 2027, SB 2075, SB 2153, SB 2154, SB 2161, SB 2181, SB 2319.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bill was delivered to the Governor for his approval on April 13, 1999: SB 2074.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following resolutions were delivered to the Secretary of State for his filing on April 13, 1999: SCR 4021, SCR 4029.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)**

**MR. SPEAKER:** The President has signed and your signature is respectfully requested on: SB 2017, SB 2025, SB 2038, SB 2148, SB 2171, SB 2254, SB 2419.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)**

**MR. SPEAKER:** The President has signed: HB 1007, HB 1013, HB 1014, HB 1015, HB 1121, HB 1156, HB 1274, HB 1290, HB 1291, HB 1325.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)**

**MR. SPEAKER:** The President has signed: HB 1034, HB 1171, HB 1329.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)**

**MR. SPEAKER:** The Senate has adopted the conference committee report on: SB 2202.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)**

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: SB 2168, SB 2344.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)**

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1002, HB 1017.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)**

**MR. SPEAKER:** The President has appointed as a new conference committee to act with a like committee from the House on:

**SB 2008:** Sens. Holmberg; Solberg; Tomac

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)**

**MR. SPEAKER:** The President has signed the veto certification on HB 1266.

**MOTION**

**SEN. ST. AUBYN MOVED** that the Senate stand in recess until 1:00 p.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Myrdal presiding.

**REPORT OF CONFERENCE COMMITTEE**

**SEN. WANZEK MOVED** that the conference committee report on Engrossed SB 2355 as printed on SJ pages 1225-1227 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2355, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2355:** A BILL for an Act to amend and reenact sections 11-33-02 and 58-03-11 of the North Dakota Century Code, relating to zoning regarding farming and ranching.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 36 YEAS, 12 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lyson; Mutch; Naaden; Nelson, G.; Nething; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**NAYS:** DeMers; Heitkamp; Lindaas; Mathern, D.; Mathern, T.; Mutzenberger; Nelson, C.; O'Connell; Redlin; Robinson; Thane; Thompson

**ABSENT AND NOT VOTING:** Bercier

Engrossed SB 2355, as amended, passed and the title was agreed to.

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**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)**

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: SB 2355.

**MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)**

**MADAM PRESIDENT:** The Speaker has appointed as a conference committee to act with a like committee from the Senate on:

**SB 2015:** Reps. Dalrymple; Byerly; Huether

**MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)**

**MADAM PRESIDENT:** The House has adopted the conference committee report and subsequently passed: SB 2202.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)**

**MR. SPEAKER:** The President has signed and your signature is respectfully requested on: SB 2003, SB 2004, SB 2010, SB 2022, SB 2114, SB 2127, SB 2267, SB 2381.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)**

**MR. SPEAKER:** The President has signed and your signature is respectfully requested on: SB 2202.

**MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)**

**MADAM PRESIDENT:** The House has sustained the Governor's veto on HB 1335. The vote was 55 YEAS, 40 NAYS, 3 ABSENT AND NOT VOTING.

**MOTION**

**SEN. ST. AUBYN MOVED** that the Senate stand in recess until 4:30 p.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Myrdal presiding.

**REPORT OF CONFERENCE COMMITTEE**

**SEN. SOLBERG MOVED** that the conference committee report on Engrossed HB 1021 as printed on SJ pages 1231-1238 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1021, as amended, was placed on the Fourteenth order.

**SECOND READING OF HOUSE BILL**

**HB 1021:** A BILL for an Act to provide an appropriation for defraying the expenses of the extension service, northern crops institute, upper great plains transportation institute, and the experiment centers; to provide for dairy diagnostic teams; to provide statements of legislative intent; and to amend and reenact sections 4-05.1-02, 4-05.1-04, 4-05.1-16, 4-05.1-17, 4-05.1-18, 4-05.1-19, 4-05.1-21, and 4-08-10 of the North Dakota Century Code, relating to the state board of agricultural research.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Bercier; Flakoll; Nelson, C.; Nelson, G.

Engrossed HB 1021, as amended, passed and the title was agreed to.

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**REPORT OF CONFERENCE COMMITTEE**

**SEN. W. STENEHJEM MOVED** that the conference committee report on Engrossed HB 1037 as printed on SJ pages 1238-1240 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1037, as amended, was placed on the Fourteenth order.

**SECOND READING OF HOUSE BILL**

**HB 1037:** A BILL for an Act to provide for year 2000 information requests; to create and enact a new section to chapter 32-12 of the North Dakota Century Code, relating to the liability of the state for a contract claim resulting from the failure of computers or computer equipment; and to amend and reenact subsection 3 of section 32-12.1-03 and subsection 3 of section 32-12.2-02 of the North Dakota Century Code, relating to the liability of political subdivisions and the state for a claim resulting from the failure of computers or computer equipment as a result of the year 2000 date change.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Bercier; Flakoll; Nelson, C.; Nelson, G.

Engrossed HB 1037, as amended, passed and the title was agreed to.

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**REPORT OF CONFERENCE COMMITTEE**

**SEN. GRINDBERG MOVED** that the conference committee report on Reengrossed HB 1443 as printed on SJ pages 1240-1243 be adopted, which motion prevailed on a voice vote.

Reengrossed HB 1443, as amended, was placed on the Fourteenth order.

**SECOND READING OF HOUSE BILL**

**HB 1443:** A BILL for an Act to create and enact five new sections to chapter 52-08 of the North Dakota Century Code, relating to work force training; to amend and reenact subsection 6 of section 15-10-01 and subsection 13 of section 15-10-17 of the North Dakota Century Code, relating to name changes of institutions of higher education; to repeal section 15-11-02.1 of the North Dakota Century Code, relating to supervision of the college at Devils Lake; and to provide an appropriation.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 39 YEAS, 6 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Cook; Fischer; Freborg; Grindberg; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutzenberger; Naaden; Nething; Redlin; Robinson; Sand; Schobinger;

Solberg; St. Aubyn; Stenehjerm, B.; Stenehjerm, W.; Tallackson; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**NAYS:** Christmann; DeMers; Heitkamp; Mutch; O'Connell; Thane

**ABSENT AND NOT VOTING:** Bercier; Flakoll; Nelson, C.; Nelson, G.

Reengrossed HB 1443, as amended, passed and the title was agreed to.

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#### REPORT OF CONFERENCE COMMITTEE

**SEN. COOK MOVED** that the conference committee report on Engrossed HB 1490 as printed on SJ pages 1243-1244 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1490, as amended, was placed on the Fourteenth order.

#### SECOND READING OF HOUSE BILL

**HB 1490:** A BILL for an Act to create and enact a new section to chapter 15-40.1 of the North Dakota Century Code, relating to the closure of schools in weather emergencies; to amend and reenact section 15-47-33 of the North Dakota Century Code, or in the alternative to amend and reenact section 15.1-06-04 of the North Dakota Century Code, relating to length of the school year; and to repeal section 15-40.1-09.1 of the North Dakota Century Code, relating to the closure of schools due to emergencies.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjerm, B.; Stenehjerm, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Bercier; Flakoll; Nelson, C.; Nelson, G.

Engrossed HB 1490, as amended, passed and the title was agreed to.

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#### REPORT OF CONFERENCE COMMITTEE

**SB 2023, as engrossed:** Your conference committee (Sens. Nething, Kringstad, Lindaas and Reps. Byerly, Carlisle, Guleson) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 874-875, adopt amendments as follows, and place SB 2023 on the Seventh order:

That the House recede from its amendments as printed on pages 874 and 875 of the Senate Journal and pages 955 and 956 of the House Journal and that Engrossed Senate Bill No. 2023 be amended as follows:

Page 1, line 2, replace the first "and" with "to provide an appropriation to the public service commission;"

Page 1, line 3, after "watershed" insert "; and to declare an emergency"

Page 1, line 11, replace "8,048,657" with "8,013,657"

Page 1, line 12, replace "6,050,687" with "6,010,687"

Page 1, line 17, replace "54,719,269" with "54,644,269"

Page 1, line 19, replace "9,283,348" with "9,208,348"

Page 1, after line 19, insert:

**"SECTION 2. APPROPRIATION - PUBLIC SERVICE COMMISSION.** There is hereby appropriated from federal funds, the sum of \$25,000, or so much of the sum as may be necessary, to the public service commission for the purpose of promoting the

"one-call" call-before-you-dig program for the period beginning with the effective date of this Act and ending June 30, 1999."

Page 2, after line 23, insert:

**"SECTION 8. EMERGENCY.** Section 2 of this Act is declared to be an emergency measure."

ReNUMBER accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

DEPARTMENT 770 - STATE WATER COMMISSION

CONFERENCE COMMITTEE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	CONFERENCE COMPARISON TO HOUSE VERSION
Salaries and wages	\$8,128,141	\$8,048,657	(\$35,000)	\$8,013,657	\$7,973,109	\$40,548
Operating expenses	6,050,687	6,050,687	(40,000)	6,010,687	5,983,487	27,200
Equipment	160,656	160,656		160,656	152,556	8,100
Capital improvements	23,624,024	23,624,024		23,624,024	23,624,024	
Grants	13,785,245	13,785,245		13,785,245	13,785,245	
Cooperative research	<u>3,050,000</u>	<u>3,050,000</u>		<u>3,050,000</u>	<u>3,050,000</u>	
Total all funds	\$54,798,753	\$54,719,269	(\$75,000)	\$54,644,269	\$54,568,421	\$75,848
Less special funds	<u>45,446,368</u>	<u>45,435,921</u>		<u>45,435,921</u>	<u>45,435,921</u>	
General fund	\$9,352,385	\$9,283,348	(\$75,000)	\$9,208,348	\$9,132,500	\$75,848
FTE	82.00	82.00	0.00	82.00	81.00	1.00

Detail of Conference Committee changes to the Senate version includes:

	REDUCE OPERATING	REDUCE SALARIES AND WAGES	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages		(\$35,000)	(\$35,000)
Operating expenses	(\$40,000)		(40,000)
Equipment			
Capital improvements			
Grants			
Cooperative research			
Total all funds	(\$40,000)	(\$35,000)	(\$75,000)
Less special funds			
General fund	(\$40,000)	(\$35,000)	(\$75,000)
FTE	(0.00)	0.00	0.00

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

CONFERENCE COMMITTEE - This amendment adds a \$25,000 federal funds appropriation to the Public Service Commission for promoting the "One-Call" call-before-you-dig program for the remainder of the 1997-99 biennium.

Engrossed SB 2023 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SEN. NOTHING MOVED** that the conference committee report on Engrossed SB 2023 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2023, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2023:** A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; to provide an appropriation to the public service commission; to provide for a study by the state engineer of the feasibility and desirability of constructing dams and other impoundments in the Pembina River watershed; and to declare an emergency.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Bercier; Flakoll; Nelson, C.; Nelson, G.

Engrossed SB 2023, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)**  
**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1021, HB 1037, HB 1443, HB 1490.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)**  
**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: SB 2023.

#### MOTION

**SEN. ST. AUBYN MOVED** that the absent members be excused, which motion prevailed.

#### MOTION

**SEN. ST. AUBYN MOVED** that the Senate be on the Seventh and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 9:00 a.m., Wednesday, April 14, 1999, which motion prevailed.

#### REPORT OF CONFERENCE COMMITTEE

**SB 2009, as engrossed:** Your conference committee (Sens. Solberg, Naaden, Tomac and Reps. Lloyd, Boehm, Nichols) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1097-1100, adopt amendments as follows, and place SB 2009 on the Seventh order:

That the House recede from its amendments as printed on pages 1097-1100 of the Senate Journal and pages 1159-1162 of the House Journal and that Engrossed Senate Bill No. 2009 be amended as follows:

Page 1, line 2, replace the first "and" with "to create a legislative council committee; to provide an appropriation to the legislative council; to provide a statement of legislative intent; to provide for a transfer; to create and enact a new subdivision to subsection 1 of section 57-38-01.2 and a new subdivision to subsection 3 of section 57-38-30.3 of the North Dakota Century Code, relating to an income tax exemption for indemnities received for destruction of cattle;," replace "section" with "sections", and after "4-01-21" insert ", 4-35-06.3, and 19-18-04"

Page 1, line 3, after "to" insert "the minor use pesticide fund," and after "commissioner" insert ", and pesticide registration fees; to provide an effective date; to provide an expiration date; and to declare an emergency"

Page 1, remove line 11

Page 1, line 13, replace "3,053,452" with "3,128,452"

Page 1, line 14, replace "828,957" with "778,957"

Page 1, line 18, replace "851,681" with "801,681"

Page 1, line 24, replace "553,907" with "573,907"

Page 2, line 2, replace "8,599,579" with "8,594,579"

Page 2, line 3, replace "4,068,216" with "4,133,216"

Page 2, line 4, replace "4,531,363" with "4,461,363"

Page 2, after line 11, insert:



**"SECTION 3. AMENDMENT.** Section 4-35-06.3 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**4-35-06.3. Minor use pesticide fund - Continuing appropriation.** The minor use pesticide fund is created as a special fund in the state treasury. All moneys in the fund are appropriated on a continuing basis to the pesticide control board for the purpose of conducting or commissioning studies, investigations, and evaluations regarding the registration and use of pesticides for minor crops, minor uses, and ~~emergency uses~~ other uses as determined by the board.

**SECTION 4. AMENDMENT.** Section 19-18-04 of the North Dakota Century Code is amended and reenacted as follows:

**19-18-04. Registration - Fees.**

1. Any person before selling or offering for sale any pesticide for use within this state shall file biennially with the commissioner an application for registration of the pesticide. The application must:
  - ~~1-~~ a. Give the name and address of each manufacturer or distributor.
  - ~~2-~~ b. Give the name and brand of each product registered.
  - ~~3-~~ c. Be accompanied by a current label of each product so registered.
  - ~~4-~~ d. Be accompanied by a registration fee of three hundred fifty dollars for each product registered. At the close of each calendar month, the commissioner shall transmit to the state treasurer all moneys received for the registrations. The state treasurer shall credit fifty dollars for each registered product to the general fund in the state treasury and the remainder of the registration fee for each registered product to the environment and rangeland protection fund.
  - ~~5-~~ e. Be accompanied by a material safety data sheet.
2. The commissioner may require an applicant or registrant to provide efficacy, toxicity, residue, and any other data necessary to determine if the pesticide will perform its intended function without unreasonable adverse effects on the environment. If the commissioner finds that the application conforms to law, the commissioner shall issue to the applicant a certificate of registration of the product. If after public hearing before the commissioner the application is denied, the product may not be offered for sale.
3. Each registration covers a two-year period beginning January first and expiring December thirty-first of the following year. A certificate of registration may not be issued for a term longer than two years, and is not transferable from one person to another, or from the ownership to whom issued to another ownership, or from one place to another place or location. A penalty of fifty percent of the license or registration fee must be imposed if the license or certificate of registration is not applied for on or before January thirty-first following the expiration date, or within the same month the pesticides are first manufactured or sold within this state. Each product must go through a two-year discontinuance period in order to clear all outstanding products in the channel of trade.
4. This section does not apply to a pesticide sold by a retail dealer if the registration fee has been paid by the manufacturer, jobber, or any other person, as required by this section.

**SECTION 5.** A new subdivision to subsection 1 of section 57-38-01.2 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

Reduced by an amount equal to any indemnity received under this Act for the destruction of cattle infected or suspected of being infected with bovine tuberculosis.

**SECTION 6.** A new subdivision to subsection 3 of section 57-38-30.3 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

An amount equal to any indemnity received under this Act for the destruction of cattle infected or suspected of being infected with bovine tuberculosis."

Page 2, line 14, replace "\$1,860,576" with "\$1,925,576"

Page 2, after line 21, insert:

**"SECTION 9. ESTIMATED INCOME - GAME AND FISH FUND.** The estimated income line item in section 1 of this Act includes the sum of \$200,000, or so much of the sum as may be necessary, from the game and fish department operating fund for the waterbank program for the biennium beginning July 1, 1999, and ending June 30, 2001.

**SECTION 10. TRANSFER.** The office of management and budget shall transfer \$285,000 from the environment and rangeland protection fund to the minor use pesticide fund for the biennium beginning July 1, 1999, and ending June 30, 2001.

**SECTION 11. LEGISLATIVE COUNCIL - CROP HARMONIZATION COMMITTEE.** The legislative council shall create a crop harmonization committee consisting of the chairman of the house agriculture committee, the chairman of the senate agriculture committee, and three other individuals appointed by the legislative council chairman, one of whom must represent the crop protection manufacturing industry. In consultation with the pesticide control board, the committee shall:

1. Identify and prioritize crop protection product labeling needs;
2. Explore the extent of authority given to this state under the federal Insecticide, Fungicide, and Rodenticide Act;
3. Identify the data necessary to enable registration of a use to occur in a timely manner;
4. Determine what research, if any, is necessary to fulfill data requirements for activities listed in this section and communicate its findings to the agriculture commissioner;
5. Request the agriculture commissioner to pursue specific research funding options from public and private sources; and
6. Report to the legislative council in the same manner as do other interim legislative council committees.

**SECTION 12. APPROPRIATION - LEGISLATIVE COUNCIL.** There is hereby appropriated out of any moneys in the minor use pesticide fund in the state treasury, not otherwise appropriated, the sum of \$15,000, or so much of the sum as may be necessary, out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$15,000, or so much of the sum as may be necessary, and from special funds derived from grants or donation income, the sum of \$150,000, or so much of the sum as may be necessary, to the legislative council for the purpose of addressing crop protection product registration and labeling as provided for in section 11 of this Act for the biennium beginning July 1, 1999, and ending June 30, 2001.

**SECTION 13. LEGISLATIVE INTENT.** It is the intent of the fifty-sixth legislative assembly that the agriculture commissioner, agricultural experiment station, and North Dakota state university extension service use resources available to them to assist in the registration of crop protection pesticides in cooperation with the crop protection industry for use in the North Dakota agriculture industry for the biennium beginning July 1, 1999, and ending June 30, 2001.

**SECTION 14. APPROPRIATION - BOARD OF ANIMAL HEALTH - 1997-99 BIENNIUM.** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$65,000, or so much of the sum as may be necessary, to the agriculture commissioner for the purpose of paying an indemnity and other expenses associated with destroying a herd of cattle infected with bovine tuberculosis for the period beginning with the effective date of this Act and ending June 30, 1999.

**SECTION 15. BUDGET SECTION REPORT.** The agriculture commissioner and the state veterinarian shall periodically report to the budget section on the status of the bovine tuberculosis disease in cattle and associated costs during the 1999-2000 interim.

**SECTION 16. EFFECTIVE DATE - EXPIRATION DATE.** Sections 5 and 6 of this Act are effective for the first two taxable years beginning after December 31, 1998, and are thereafter ineffective.

**SECTION 17. EXPIRATION DATE.** Section 4 of this Act is effective through June 30, 2001, and after that date is ineffective.

**SECTION 18. EMERGENCY.** Section 14 of this Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

DEPARTMENT 160 - LEGISLATIVE COUNCIL

CONFERENCE COMMITTEE - This amendment creates for the 1999-2000 interim an interim Crop Harmonization Committee and appropriates \$180,000, \$15,000 of which is from the general fund, \$15,000 of which is from the minor use pesticide fund, and up to \$150,000 of grants or donations to the committee to address crop protection registration and labeling issues. The House had established a crop protection task force and appropriated \$300,000 from the environment and rangeland protection fund to the task force for addressing these issues.

DEPARTMENT 602 - AGRICULTURE DEPARTMENT

CONFERENCE COMMITTEE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	CONFERENCE COMMITTEE COMPARISON TO HOUSE VERSION
Salaries and wages	\$3,130,530	\$3,053,452	\$75,000	\$3,128,452	\$3,083,452	\$45,000
Operating expenses	828,957	828,957	(50,000)	778,957	628,957	150,000
Equipment	22,900	22,900		22,900	22,900	
Grants	161,700	161,700		161,700	161,700	
Board of Animal Health	506,818	502,922		502,922	502,922	
Ag mediation	857,818	851,681	(50,000)	801,681	776,681	25,000
Ag in the classroom	96,000	96,000		96,000	96,000	
Anhydrous ammonia storage	8,154	8,154		8,154	8,154	
Waterbank program	414,000	414,000		414,000	414,000	
Pride of Dakota	151,841	151,516		151,516	151,516	
Wildlife services	779,694	779,694		779,694	779,694	
Safe Send	554,363	553,907	20,000	573,907	573,907	
Noxious weeds	<u>1,174,696</u>	<u>1,174,696</u>		<u>1,174,696</u>	<u>1,174,696</u>	
Total all funds	\$8,687,471	\$8,599,579	(\$5,000)	\$8,594,579	\$8,374,579	\$220,000
Less special funds	<u>4,080,342</u>	<u>4,068,216</u>	<u>65,000</u>	<u>4,133,216</u>	<u>4,033,216</u>	<u>100,000</u>
General fund	\$4,607,129	\$4,531,363	(\$70,000)	\$4,461,363	\$4,341,363	\$120,000
FTE	46.00	47.00	0.50	47.50	46.00	1.50

Detail of Conference Committee changes to the Senate version includes:

	RESTORE FUNDING FOR PLANT SERVICES PROGRAM	REDUCE OPERATING EXPENSES	REDUCE AGRICULTURE MEDIATION	ADD FUNDING FOR COMPUTERS	ADD AG CHEMICAL REGISTRATION POSITION	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	\$30,000 <sup>1</sup>				\$45,000 <sup>5</sup>	\$75,000
Operating expenses		(\$50,000) <sup>2</sup>				(50,000)
Equipment						
Grants						
Board of Animal Health						
Ag mediation			(\$50,000) <sup>3</sup>			(50,000)
Ag in the classroom						
Anhydrous ammonia storage						
Waterbank program						
Pride of Dakota						
Wildlife services						
Safe Send				\$20,000 <sup>4</sup>		20,000
Noxious weeds						
Total all funds	\$30,000	(\$50,000)	(\$50,000)	\$20,000	\$45,000	(\$5,000)
Less special funds				<u>20,000</u>	<u>45,000</u>	<u>65,000</u>
General fund	\$30,000	(\$50,000)	(\$50,000)	\$0	\$0	(\$70,000)
FTE	0.00	0.00	0.00	0.00	0.50	0.50

Conference Committee changes narrative:

- 1 Restores funding reduced by the Senate for temporary and overtime salaries in the plant services program, the same as the House version.
- 2 Reduces operating expenses. The commissioner may determine the specific areas of reduction within this line item. The House had reduced the operating expenses line item by \$200,000 and allowed the commissioner line item transfer authority of up to \$100,000 without Emergency Commission approval.
- 3 Reduces the agriculture mediation line item by \$50,000 from the general fund. The House had reduced this line item by \$75,000, \$20,000 of which was from the general fund and had eliminated one FTE position. The conference committee did not remove an FTE position for agriculture mediation.
- 4 Adds funding from the environment and rangeland protection fund for purchasing computers and related costs for Project Safe Send.
- 5 Adds \$45,000 from the environment and rangeland protection fund for a .5 FTE position for minor use product registration activities, including writing and preparing federal Sections 18 and 24 crop pesticide registrations for minor use labeling. The department may use this funding to increase a .5 FTE position to a one FTE position for performing these activities.

Sections are added that:

Expand the use of the minor use pesticide fund for registering pesticides on more than just minor crops.

Increase the biennial pesticide registration fee from \$300 to \$350. The additional funds collected will be deposited in the environment and rangeland protection fund. The increase is effective only through June 30, 2001. The House had increased this fee by \$100 and deposited \$17 of the increase into the general fund and the remaining \$83 into the environment and rangeland protection fund.

Transfer \$285,000 from the environment and rangeland protection fund to the minor use pesticide fund. The House had provided for a transfer of \$85,000.

Provide legislative intent that the Agriculture Department, the Agricultural Experiment Station, and the NDSU Extension Service use resources available to them to assist in the registration of crop protection pesticides in cooperation with the crop protection industry for use in North Dakota.

Appropriate \$65,000 from the general fund for the remainder of the 1997-99 biennium for indemnifying the owner and paying other expenses associated with destroying cattle infected with bovine tuberculosis. The House had appropriated \$25,000 for this purpose.

Provide for periodic reports to the Budget Section on the status of the bovine tuberculosis infection in cattle in North Dakota and associated costs during the 1999-2000 interim.

Allow an income tax exemption for 1999 and 2000 for any indemnity received as a result of the bovine tuberculosis infection in cattle herds in North Dakota.

Sections added by the House are not included which would have provided that the Agriculture Commissioner charge wholesalers and manufacturers for the actual costs of disposing of their products under Project Safe Send and that products which are not a direct danger to the public should be disposed of by the owner in a proper manner rather than under Project Safe Send.

Engrossed SB 2009 was placed on the Seventh order of business on the calendar.

The Senate stood adjourned pursuant to Senator St. Aubyn's motion.

**WILLIAM C. PARKER, Secretary**